



2008

.

.

1	
4	:
5	1.1
5	1.1.1
6	2.1.1
7	3.1.1
13	4.1.1
16	2.1
16	1.2.1
20	2.2.1
21	3.2.1
25	4.2.1
27	3.1

28		1.3.1
28		1.1.3.1
33		2.1.3.1
43		2.3.1
43		1.2.3.1
49		2.2.3.1
55		:
55		1.2
55	.	1.1.2
62	.	2.1.2
68		2.2
68	.	1.2.2
77	.	2.2.2
81		3.2
81		1.3.2
87	.	2.3.2
94	.	3.3.2
99		

	:	
99		1.3
99	.	1.1.3
101		2.1.3
	.	
101	.	1.2.1.3
103	.	2.2.1.3
107		2.3
115		3.3
115	.	1.3.3
119	.	2.3.3
120		4.3
121		1.4.3
123		2.4.3
125		5.3
125		1.5.3
127		2.5.3
129		
135		
141		

140 **2006** **(12)** .

145 () .

2008

2008

.

.

.

Abstract

Mediatory role As alternative solutions to settle civil disputes

Mohammed Ahmed Mohammed Al-Qatawneh

Mu`tah University. 2008

Civil Disputes are no longer simple or clear in on distinguished with technological progress and intellectual overlap and in a world witnesses an unprecedented revolution in communication technology, a rapid flow of information and the potential of electronic networks to arrange relations and contracts through the electronic network.

Thus, the call for new methods to provide quick and effective resolutions of these conflicts began, reasons may verify for resorting to alternative solutions in each country from another, but they all agree that the main reason to think about alternative solutions to resolve disputes was the slow litigation procedures. It is not sufficient to achieve justice between litigants to give every one his right, but justice should not be slow and late after the decision lose its importance.

As the arbitration is not much different from the legal actions, so thinking in finding other effective and quick methods to resolve disputes, is an important issue.

This has become an urgent need to facilitate legal proceedings in the courts and develop the first systematic thinking in resolving disputes through Secondly, solutions far from the site of the courts to resolve these disputes through opening the door to a number of retired judges, lawyers and professionals, who are known for their competence and integrity to contribute to the settlement of some disputes in a friendly way which depends on compromise and accommodation away from the beam and without compulsion , and without being a winner or a loser or wrong or correct, and without leaving an impact on hearts of competing to take account of the speed required and mutual interests of the disputants.

.

1995

1990

.

1995

1995

26-22

1996

17-13

.

.

.

12

⁽¹⁾2006

.

.

.

.

2006 (12)

.738

2006/3/16

(4751)

(1)

(1)

1.1

1.1.1

ADR "Alternative Dispute)

(Resolution"

(Appropriate Dispute Resolution)

(Dispute Resolution (DR))" "

(1)
.

.

" "

(2)
.

" "

2.1.1

-:

()

2

(1)

.2008/1/25

(2)

.3

:

(1)
.

-:

" :

(2) "
.

" :

(3) "
.

" :

(4) "
.

.

.1031 () 2002

(1)

.16

(2)

D.Jennings, M.Twomey. Fox. 1 .Andersons. Business Law and the legal (3)
Environment,18 th, ed,2002.

.3 2004 (4)

/5/30

4

(4)

. 2007

.

(1).

.

3.1.1

-:

-: :

-

_(1)

(1)

. 2005/8/6 7

": 2006 (12) (3) () (1)

....

(2)
.

" "

(3)
.

(3)

(4)
.

(5)

-:

.
.
.

.

(2)

.8

(3)

.3

": 2006 (12) (3) () (4)

"....

": (2) () (5)

()

()

".

.

(3)

(78)

) : 1988 (24)

.

.(

.

-

-

.

-:

:

(3)

()

(1)

.

.

(2).

":

(3)

()

(1)

" ...

(2)

2002

.4

1996 8

.

-:

:

"

"

":

(2)

()

(

)

."

"

(3)

()

."

.

-:

:

(1).

.

.1999

-: :

(2).

.

{ })

-

-

.4

.9

(1)

(2)

}

{

⁽¹⁾(...

- -
.

2.1

.

.

" "

.

.

1

_____ (1)

.52 1996

.

-:

"

(1)

.

-:

.

(2)

. .

-:

.80 1994

.81

(1)

(2)

(1)

.

-:

"

"

(2)

.

.

.

.83

(1)

.85

(2)

”

”

·

·

2.1

·

1.2.1

：

(1)

·

”

· (1) ” ·

(1)

.142 1956

(1790)

(1)

.1900 (100)

2001 (31)

" :

"
.

(2)
.

(3)
.

(1)
.

()

-

(2)

.45 2004 1

(3)

.98 2003

(1)

.49 1 1998

.
 1953 (18)
 2001 (31)
 2003 (37)
 2006 (12)

.
 .
 -:
 :
 .
 -
 :
 -

:

.

(1)
.

:

.

.

2.2.1

.

- " :

7

()

(1)

..
"

(1)
.

(2)
.

(43)

(647)

."

" : 1976

)

(

)

(

.

.

(1)

.10 2005

":

648

(1)

(2)

."

()

.

()

.

3.2.1

(1)

.

"

(1)"

.

(2)

.

.1199

(1)

.11

(1)

.90

(2)

(3)
.

.

—

—

.

1963 (32)

1960 21

1996 (8)

) -: 120

.57 ()

 (3)

$\cdot($
 $) -: 121$

\cdot
 $:$
 -1
 \cdot
 -2
 $\cdot($
 $) -: (122)$

\cdot
 \cdot
 $\cdot($

-:

:

.

:

.

.

-

-

.

4.2.1

(1)

.

-

-

-

-

.

)

(

(1)

.

.12

.13

(1)

(1)

.

:

:

.

:

.

.

3.1

()

()

(1) .

(2) .

1.3.1

.

1.1.3.1

(1)

(2) .

.2 (1)

.3 (2)

(1)

.11

1996 29

(2)

.13

.

.

... :
() ...

(1) .

)
(

()
_____ (1)
.268 1998

(2) .

) :

:

;

.

.

(1). (

()

.

{ } "

-

-

}

{

(1)" ..

.267 266

(1)

.52

(1)

- -

.

"

(2) "

.

(1) .

(2)

"

(3) "

.

1976 (61)

.

.(9)

(2)

(1)

1

.1240 2002

(2)

.6

.(35)

(3)

：

" 。

：

：" ！ "：

：" "：

(4) " "：

。

2.1.3.1

(1)

(4)

.258

1995

.2 2005

(1)

.

(2).

1789

1976/12/24

1973/1/3

(1).

20

1997/7/22

1995

8

1978

1998/12/18

(2).

2002

4

.4 (2)

(1)

"

"

2005

/

.1

(2)

.2

26)

(3) . (2006

) 1990

(Centre for Effective Dispute Resolution)(CEDR

(4)

) 1996

(CLCC

1999 1998

2001

(1)

2002

2004

2004

(2)

.3

(3)

.7

(4)

.8

(1)

.3

(2)

1965

:

1970-

(3)
.

%80

-:

-:

:

(ADR)

1977

(1)
.

-

-

(3)

1998

20 - 9 "

"

.12

(1)

.8 2001

(2)
.

(3)
.

-() :

20

.5

.8 (2)

(3)

%10

%10

(1)
.

-: :

(1)
.

-: () :

.

(2)
.

-: :

.6

	(1)
.9	(1)
.9	(2)

(3) .

(
(1) .

()

.

.2 .6

(3)

(1)

,

(2) .

(3)

(5)

(4)

(1)()

.

<hr/>	
.3	(2)
.9	(3)
(33)	(4)

-1 ":

-2 .

" : (3) (5)

-:

- 3

- 2

- 1

- 4

- 5

- 6

- 7

".

" : (3) (1)

-:

".

-

-

(2) .

()

(3) .

(3) .

() (2)

.7 2005

1980 / 23 (3)

" -; (3)

.

(4)

-

-

"

"

.

.

!

.

/

1961

"

.

" - :

(4)

.

"

.

.

⁽¹⁾.1963

)

:

(

.

2.3.1

1900

1900 (100)

.

1.2.3.1

.

.5

(

)

⁽¹⁾

(1) .

(2) .

.

(1) .

.7

(1)

(2)

.6 2004

.11 (1)

1953

(2)

(1)

2001	(31)	1953	(18)	(2)
		(1)	2001/8/15	
	:	(56)	.(1)	
(23-14)	(13-9)	(8-2)	(1)	
	(47-36)	(35-24)		
	(54-52)		(51-48)	
		.(65 55)		
	:		(53)	(1)
				- "

,

(2)

.

.

(1)

.



:

-

-3

-2

-1

".

. ":

2001

(31)

(54)

(2)

:

.1

.2

.

.6

(1)

(43)

(657-647)

1952

(15)

1976

(2)

":

(78)

2006

(24)

"

(1)

"-:

1952

(15)

(9)

(2)

"

(

26)

(1)

2002

2002/2/24 2002 (26)

(59)

(

(2)

$$=$$

:

•

:

(1)

(2)

.18 2003 1

(2)

(1)

.180 2003

(2)

(8)

2005

. - -

2.2.3.1

2003

2003 (37)

.

)

59)

2002 (26

(

2003

(2)

2006

12

()

.

()

.

()

2006

)

(() ()

2006 (12)

" " " " " " :

(1)

" " (2)

(3)

.

" : 2006 (12)

"

- " :

()

"

- " :

(10) (1)

(2) () (2)

()

(2) () (3)

()

"

“ ”

(4)“ ”

(5)

“ ”

·

·

“ ”

(1)

— “ ”:

(3)

()

(4)

— “ ”:

(3)

()

(5)

— “ ”:

(7)

(1)

(2)

(1)

.2006 (12)

(9) (8) (7) (6) (2)

" : (8) (1)

(2)
.

(1)
.

" " ()

(2)
.

.11 _____ (2)

.12 (1)

- " (7) () (2)

."

1.2

1.1.2

2006 (12)

(1) .

.

(2) .

- :

- :

:

(1)

.11 10 2003

(2)

.12

)
.

(1

.

.

(2)
.

-:

:

(3)
.

⁽¹⁾ Sandy Cahir, Liz Freeman .Fran Gass. Monica Hill. Fred Stern, Conflict Resolution in Schools, 2001, p2+3.

⁽²⁾ Sandy Cahi, op.cit ,p6

.6 1999

"

"

(3)

- :

(1)

- :

(2)

3)

(

.12 " " (1)

⁽²⁾P. Imrana Jalal. Ethnic and Cultural Issues in Determining Family Disputes in Pacific Island Courts. October 2001.p2.

⁽³⁾ P. Imrana Jalal, op.cit ,p6

(1)

(2)

— :

:

(3)

⁽¹⁾ P. Imrana Jalal .op.cit, p12.

⁽²⁾ P. Imrana Jalal ,op .cit, p14.

⁽³⁾P. Imrana Jalal .op ,cit ,p 19.

-: :

(1) .

-: :

(2) .

-: :

"

"

(3) .

-: :

⁽¹⁾P. Imrana Jalal .op.cit ,p16

.15 " " (2)

.14 " " (3)

(1)

.

-:

:

.

(2)

.

(3)

.

-:

:

.32	"	"	(1)
.23	"	"	(2)
.25	"	"	(3)

()

.

(1).

2.1.2

.

(2).

":

2006 (12)

(1)

1 2004.

(2) الناصر وابو الغنم، تقرير عن زيارة الوفد الاردني للولايات المتحدة الامريكية للاطلاع على كيفية تطبيق نظام الوساطة، ص13.

(2006)

" .

(1)

1976 (61)

： " 1992 (12) (9) ⁽¹⁾

：

：

.1

.2

.3

.4

.5

.6

.7

.8

.9

.10

.11

()

.1 .

.2

.

" ()

(1)"

.

(2)

.

(1)

.19 2004

1

(2)

.139

—
(1) .

—

.

(2) .

.

(3)

.139

(1)

(2) Shaneela Khan, Mediation in the Criminal System an Improved Model for Justice ,2005,p7.

.140

(3)

.

(1)

.

(2)

—

—

.

—

—

(3)

(4)

.

.146

4 2002

(1)

(2)

147

(3)

.148

(4)

.

.

2.2

1.2.2

-:

-: :

(1)

.1

(1)

(1)
.

(7)

()

" :

"
.

.

- :

:

(2)
.

" :

(6)

"
.

(1)

.7

.2

(2)

-:

:

.

(1)
.
3) ()

" :

(

".
.

-:

(9)

-

.

-1 -

(1)

.5

-2

"

.

-:

:

(1)

-

-

.2

(1)

(1) .

(2) .

-: :

(3) .

": (5)

." .

-: :

.7 2006 (2) (21)

.8 (1)
(2)
(3)

.5

(1)

- :

:

.

(2)

- :

:

(1)

.7

(2)

.4 2002

•

— :

•

•

(1) .

— :

•

•

(2)

(1)

.8

$$^{\prime\prime} : 1988 \quad (24)$$

71

(1)

(2)

• •

(1)

.

-

-

.

.

.7

(1)

2006 (12)

" :

2003 (37)

(8)

"

2.2.2

.

1976 (43)

:

.

(1).

.

.

. . . .

.11

(1)

(1) .

.

(2) .

(3) .

.16	(1)
.12	(2)
.9	(3)

(1) .

- :

-

(2) .

()

-

.

-

(3) .

.

-

.11

(1)

(2)

.58 1998

.5 2002 -

-

(3)

(1)

3.2

.

.

1.3.2

-:

-:

:

.

(1) .

(3)

- ":

(3)

(1)

(1)

.

-:

:

-:

.

-

.

.6

(1)

(1) /

/

/

.

.

.

.

.

.

.

.

/

.

(1)

.

.

(1) .

-:

:

(2) .

(6)

(1) Jeffrey Krivis ,The Five Stages Of Mediation. December 1999.p2.

":

(6)

(2)

..

.

(1)
.

.

- :

:

(2)
.

.7

(1)

⁽²⁾ Jeffrey Kravis, op.cit ,p4.

.

-:

:

-

-

.

(78)

(1).

.

(7)

":

(78)

(1)

."

- ";

.

-

.

-

.

-

.

-

"
.

2.3.2

-;

⁽¹⁾2006/80

:

.

:

/123

2006/4/1

2006

.

.....

2006/80

.....

.....

.....

.

—

(1)

—

.

：

．

：

．

．

：

．

：

：

．

．

．

＊

：

．

2006/80

，

：

．

2006/2/23

1995 112233

1/9

2006/1/10

(2006/1/10

2006/3775)

2007/

.%30

.

:

.

:

.

(

)

:

:

1500

,

.

:

.

:

.

:

.

:

.

1

•

• •

•

$$\left(\begin{array}{c} \end{array} \right)$$

•

•

•

•

•

•

•

•

•

•

I

.

•

•

•

•

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

⋮

:

(78)

(1)

.

3.3.2

-:

()

":

(7)

."

-:

:

:

(2)

": 1988 (24)

(78) (1)

."

(7) () (2)

:

(7) ()

":

."

.

:

(1)

.

.

:

.

:

(9)

-:

(7)

()

(1)

.)

.

.1.

.(

(213)

.(1)

-:

-:

".:

-:

.

.

.

.

.

.

".

(1)

(213)

(1

(2

(3

(4

(5

(6

(7

(8

:

(1)

:

(2)

-(3)

.

.

.

.

.

.

.

.

.

.

.

.

.

.

.

.

".

(7) () (1)

"

".

(7) () (2)

"

⁽³⁾ Alternative Dispute Resolution, promoting the rule of law (CEELI) and (ABA), 2005, p 15.

(12)

2006

-:

-1

-2

-3

-4

-5

-6

1.3

.

1.1.3

) :

⁽¹⁾. ()

⁽²⁾. (

⁽³⁾ .

.

"

(1)

"

.32 2005

(2)

.6

.10

(3)

•

•

•

.

•

•

$$\vdots$$

•

•

•

•

•

•

•

.6

(1)

(1)
.

.

(2)
.

(3)

()

-:

:

(3)
.

-:

:

- ":

(2) () (1)

()

."

" 2006 12

(3) () (2)

."

.33

(3)

(1)

.

.

:

-:

:

(10)

)

(

.

2.2.1.3

.34

(1)

-:

-: :

(1)
.

-: :

(2)
.

-: :

(3)
.

⁽¹⁾ Richard Salem , op.cit ,p4

(2)

.3 1999

(3)

.4

-: :

(1)

.

.

-: :

(2)

.

(3)

.

-: :

.2005/6/13 9 2005 - (1)

(2)

.3

.2007/10/29 18 2004 (3)

(1)

.

-:

:

(2)

.

"

40":

(1)

.14

2006

.13

(2)

(1) .

- : :

(2) .

2.3

- :

- : :

(3) .

.13 . (1)

.14 . (2)

⁽³⁾ Moody, Roger, Maine Association of Mediators, October 2007,p1.

(1)

-:

:

(2)

-:

:

⁽¹⁾ Moody, op.cit ,p2

⁽²⁾ Moody, op.cit, p3.

(1)

(2)

—:

:

⁽¹⁾ Moody, op.cit, p4

⁽²⁾ Moody, op.cit, p4

(1)
.

(2)
.

·
-∴ ∴

(3)
.

⁽¹⁾ Moody, op.cit, p5.

⁽²⁾ Moody, op.cit ,p5.

⁽³⁾ Moody, op.cit, p6

(1)

.

.

(2)

.

-:

:

.

)

.

(3)

-:

:

⁽¹⁾ Moody, op.cit, p5

⁽²⁾ Moody, op.cit ,p6.

⁽³⁾ Roger Moody, op.cit, p7.

–.(1)

.1

.2

.3

.4

.5

.6

⁽¹⁾ For more detail:-

- Moody, op.cit ,p8.

-Mediation Europe, op.cit ,p5.

- ADR Institute of Canada, op.cit ,p11.

.

.

-

-

(1)

.

-:

:

(2)

-

-

(3)

.

⁽¹⁾ Moody, op.cit ,p9.

⁽²⁾ Moody, op.cit, p9.

⁽³⁾ Moody, op.cit,,p14.

	(1)
·	
—:	:
·	
—:	
·	.1
	.2
·	
	.3
·	
	.4
·	
	.5
·	

(1) ·

1.3.3

⁽¹⁾ Moody, op. cit,p14.

⁽¹⁾ Roger Moody, op. cit ,p 16.

.

- :

.

-

.

-

.

-

.

-

- :

- :

:

(1)

.

(2)

.

.46

.12

(1)

(2)

.

-:

:

(1)

.

(2)

.

.

-:

:

(3)

.

.47

(1)

12

(2)

.48

(3)

(1)

(2)

-:

.

.

.

.12

(1)

.49

(2)

.

.

-:

:

.

(1).

2.3.3

(9) ()

(2)

.49 (1)
-: 2006 (12) (9) () (2)
-1)

.

-2

(.

.

.

.

.

-:

:

.

:

.

:

.

.

4.3

1.4.3

— ∴

—

— ∴⁽¹⁾

∴

∴

⁽¹⁾ Richard Salem ,Trust in Mediation, 2005,p4.

		.	:
		.	
		.	
	-:		-
	-(1)		
.			.1
	.		.2
			.3
		.	.4
	.		.5
	.		.6
		.	
2002			(1)
			.19

-(1)

.1

.2

.3

.4

-:

-

(2)

2.4.3

-:

-:

:

-

-

⁽¹⁾ Salem ,op.cit ,p5

⁽²⁾Salem, op.cit ,p4.

(1)

— ∴ ∴

(2)

— ∴ ∴

()

∴

”

”

”

”

(3) ”

”

— ∴ ∴

.

(1)

⁽¹⁾ Stephen R. Marsh, Negotiation Styles in Mediation, 2003,p2.

.11 2000

⁽²⁾

⁽³⁾ Stephen R. Marsh, op.cit , p12.

.23 2004

⁽¹⁾

- :

(2)

5.3

1.5.3

" "

(1)

⁽²⁾ Stephen R. Marsh, op.cit , p14

)

-. (2)

:

.

:

.

:

.

"

"

(3)

.

(4)

.

.34

(2)

(3)

.25 2008

.34

(4)

.

.

.

.

2.5.3

—: (1)

—

.

.16

(1)

-

.

-

.

-:

.

.1

.2

.

.3

.

.

.4

.

.

.5

(1)

.

.17

(1)

.

.

(1)

—

—

.

.19

(1)

.

.

-:

-: :

-:
(12)

.1

2006

.

(12)

.2

2006

.3

.4

.5

.6

.7

.8

.
.9

.
.10

.
-:
-:

.1

.
.2

.
.3

.
.4

.

		(3)	.5
-	-		
		(7)	.6
.			
		(8)	.7
		(9)	.8
		(.9
2002	(26)	59)	
			.10

.	.11
.	.12
.	.13
.	.14
.	.15
.	.16
(9)	.16
.	.17
(19)	.17
": (19)	

(6)

.18

1996

(8)

.19

.20

-

.

2005

1956

1987

2002

.1

1998

"

"

2003

1996

.1

1994

/

()

1998

.1 1998

1996 29

1996

2002

.

-

2002

.

-

2004

.2004 1

1998

.

)

2004

.1

(

2004

.2004

1

2005

.

.1

2003

-

2006

.

2005

.

2006

.(2)

(21)

.2002

2003

..

2004

.(4)

.2008/1/25

2003

2005

"

"

2002

2005

1999

2008

2004

-

Salem, Richard 2005 ,**Trust in Mediation**, internet.

Moody, Roger 2007, **Maine Association of Mediators**, October.

Mediation Europe 2006, **Alternative Dispute Resolution in Europe**,
European code of conduct for mediators.

ADR Institute of Canada 2005, **Inc, National Mediation Rules**.

Stephen R. Marsh 2003, **Negotiation Styles in Mediation**.

Cahir, Sandy Liz Freeman 2001 .Fran Gass. Monica Hill. Fred Stern,
Conflict Resolution in Schools.

Jalal, P.Imrana. 2001 **Ethnic and Cultural Issues in Determining Family
Disputes in Pacific Island Courts**, October.

Kravis, Jeffrey1999 , **The Five Stages Of Mediation**. December.

Khan,Shaneela 2005, **Mediation in the Criminal System an Improved
Model for Justice**.

()
2006 (12)

()

2006

(12)

-1

(2006

)

.

-2

()

-

()

.

-

()

-

.

-3

-

.

-

.

-4

•

•

-5

•

-6

•

-7

—

•

•





()

2008 ()

()

2008 ()

)

-1

(2008

-2

-:

:

.

:

.

:

.

:

.

: .
 :
 .
 :
 .
 :
 .
 -3
 () - -4
 ()
 .
 -ب
) -ج
 ()
 .
 - -5
 .
 -ب

- -6

-ب-

-7

- -8

-

-:

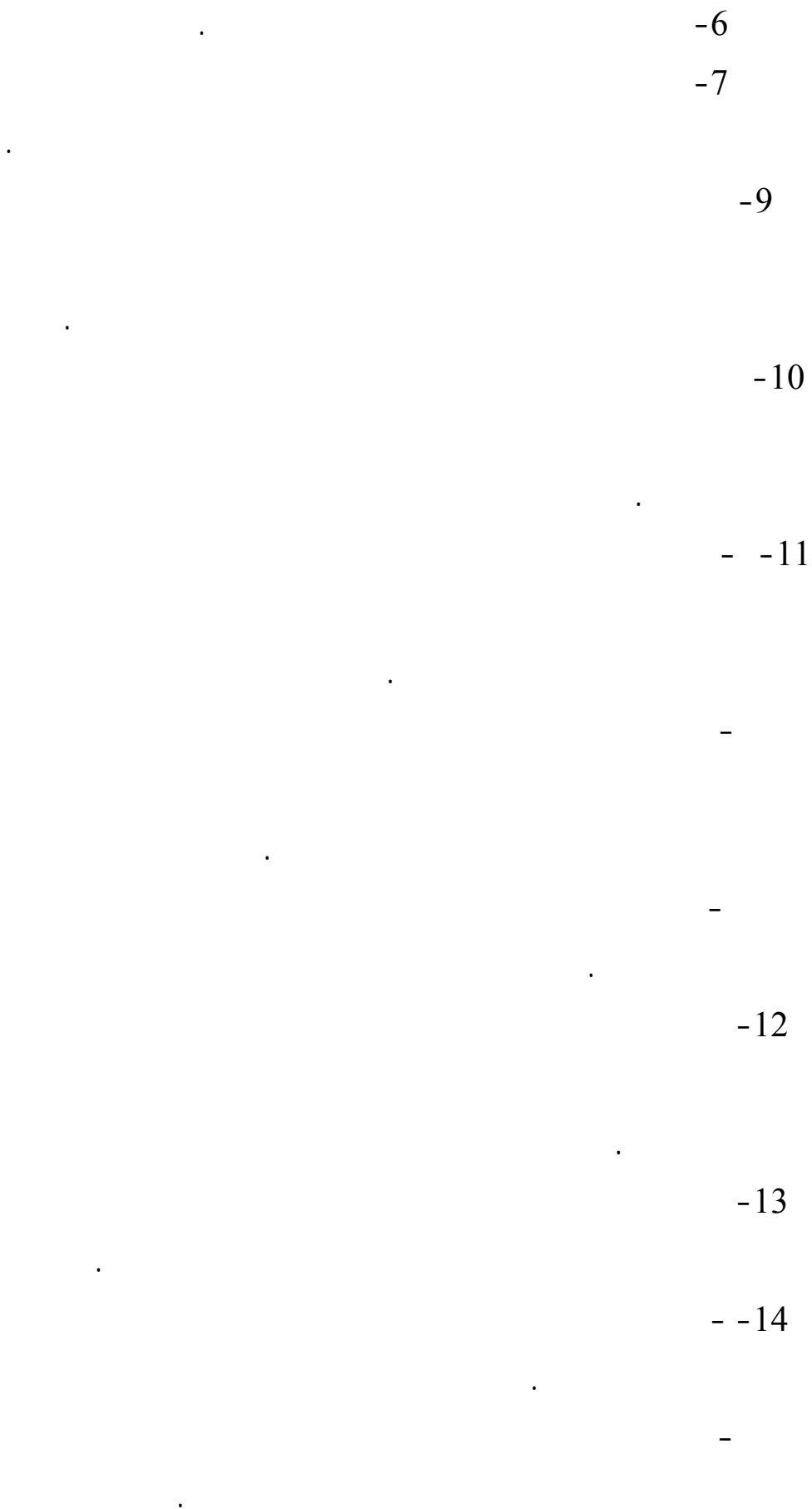
-1

-2

-3

-4

-5



-

.

-

.

-

.

-

.

-

.

-:

-15

-

.

-

.

-

.

- -16

.

-:

-

-1

.

-2

.

-3

.

-17

.

-18

.

- -19

.

-1 -

.

